




MEMORANDUM

To: DDA Stakeholders
From: Bernard Simons, Deputy Secretary 
Re: DDA Appendix K #1- Retainer Payments Guidance - Revised
Release Date: June 1, 2020
Effective: March 13, 2020

NOTE: Please inform appropriate staff members of the contents of this memorandum.

BACKGROUND

On March 5, 2020, Governor Lawrence J. Hogan, Jr., declared a state of emergency due to disease ("COVID-19") caused by the novel coronavirus. The COVID-19 outbreak was declared a national emergency on March 13, 2020 and was previously declared a nationwide public health emergency on January 31, 2020 (retroactive to January 27, 2020).

The purpose of this guidance is to inform Developmental Disabilities Administration (DDA) stakeholders of temporary changes to the DDA's Home and Community-Based Services (HCBS) Waiver programs (i.e. Community Pathways Waiver, Community Supports Waiver, and Family Supports Waiver) and State funded services and operations in response to health and safety concerns related to the COVID-19 pandemic.

This guidance implements temporary modifications to DDA's Waiver programs in Appendix K, submitted to and approved by the Centers for Medicare and Medicaid Services, and DDA State Funded services to address the state of emergency.

OVERVIEW

During the COVID-19 pandemic, some participants may choose to stay with their families, some may request altered or reduced service delivery, or some may be supported in other systems (e.g. hospitals, nursing facilities, etc.). In addition, Meaningful Day services and programs have been closed due to State mandates to protect the public's health. In these situations, providers may request a COVID-19 Retainer Payment when they are not providing or paying for services for a participant.

The time limit for the retainer payment may not exceed **the lesser of 30** consecutive days or the number of days for which the State authorizes a payment for a "bed-hold" in nursing facilities.

Currently, Maryland Medicaid State Plan nursing facility “bed-hold” days are limited to 18 days. If either the Maryland Medicaid State Plan “bed-hold” days or federal restrictions are changed, COVID-19 retainer payments may be paid up to 30 days.

Retainer payments are for direct care staff and providers who normally provide services that include habilitation and personal care, but are currently unable to due to: (1) health and safety risk; (2) State mandates; (3) complications experienced during the COVID-19 pandemic because the participant is sick due to COVID-19; and/or (4) the participant is isolated or quarantined based on local, State, federal and/or medical requirements/orders.

This guidance applies to both the self-directed and traditional service delivery models for the following services. It does not apply to participants and providers associated with the LTSS Maryland pilot, who will receive separate pilot specific guidance.

Meaningful Day Services		Residential Services		Support Services (CCS and Waiver Supports)	
X	Employment Services	X	Community Living – Group Home	Assistive Technology & Services	Nurse Health Case Management
X	Supported Employment	X	Supported Living	Behavioral Support Services	Nurse CM & Delegation Svs
	Employment Discovery & Customization		Shared Living	Coordination of Community Services	Participant Ed, Training & Advocacy
X	Career Exploration			Environmental Assessment	X Personal Supports
X	Community Development Svs			Environmental Modification	Respite Services
X	Day Habilitation			Family & Peer Mentoring Supports	Remote Support Services
				Family Caregiver Training & Empowerment	Support Broker
				Housing Support	Transportation Svs
				Nurse Consultation	Vehicle Mods

Standards and Requirements

Traditional Service Delivery Model

1. Retainer payment will occur on a case by case basis when the provider or participant is directly impacted by COVID-19. Retainer payments will not be authorized when staff or providers are providing services to the participant. **(Revised June 1, 2020)**
2. Retainer Payments are paid from existing service authorization; therefore, no new funding is allocated. **(Revised June 1, 2020)**
3. Retainer Payment Limits:
 - a. Meaningful Day, Community Living- Group Home (CLGH), and Supported Living (SL) retainer payment time limit may not exceed the lesser of **30 consecutive days** or the number of days for which the State authorizes a payment for "bed-hold" in nursing facilities. **Currently, Maryland Medicaid State Plan nursing facility "bed-hold" days are limited to 18 days.**
 - b. Meaningful Day hourly services (provided under self-direction service delivery model) retainer payment time limit may not exceed **108 hours** unless otherwise authorized by the DDA.
 - c. Personal Support (PS) retainer payment time limit may not exceed **72 hours** (e.g. 576 15-minute units) unless otherwise authorized by the DDA.
4. Retainer payments for CLGH, SL and PS will be paid at **100%** of the authorized rate including add-ons, as in the participant's person-centered plan and budget, for both the self-directed and traditional service delivery models.
5. Retainer payment for Meaningful Day services will be paid at **80%** of the authorized rate including add-ons for both the self-directed and traditional service delivery models, as set forth in the participant's person-centered plan and budget, for both the self-directed and traditional service delivery models.
6. If a provider is paying legally responsible individuals, relatives, friends, direct support professional, or any other qualified individual to provide services in alternative locations they shall bill as if services were provided by staff in the normal location (e.g. PCIS2 present day or self-direction timesheet/invoice) and not bill for a COVID-19 Retainer Payment. **(Revised June 1, 2020)**
7. If families, legally responsible individuals, relatives, or friends choose to support the participant without pay (aka. natural supports), then the provider can bill for a COVID-19 Retainer Payment. **(Revised June 1, 2020)**
8. For CLGH services, the COVID-19 Retainer Payment replaces the Residential Retainer Fee noted within the DDA's Community Pathways approved waiver. As per CMS directive, retainer payment time limit may not exceed the lesser of **30 consecutive days** or the number of days for which the State authorizes a payment for "bed-hold" in nursing facilities (Reference: [CMS Olmstead Update letter #3 July 25, 2000](#)). Therefore, a provider can only seek payment for up to **18 days** for Retainer Payments per calendar year. **(Revised June 1, 2020)**

Self-Directed Service Delivery Model (New June 1, 2020)

1. Participants self-directing services, as the employer of record, determine staff schedules, pay rates, benefits including paid time off (PTO), and authorize timesheets/invoices based on their approved budget.
2. PTO, under the self-directed service model, can be used like a Retainer Payment to keep staff.
3. Unlike Retainer Payments, PTO is not limited based on the State's nursing facility "bed-hold" days. It is limited based on the participants authorized self-directed budget.
4. Participants enrolled in the self-directed service delivery model will determine, on a case by case basis, staff they will authorize PTO.
5. The Fiscal Management Services (FMS) provider, on behalf of a participant enrolled in self-directed services, will review documentation to ensure that a single staff member does not receive both payment for provision of services and PTO for the same time.
6. If a FMS provider, on behalf of a participant enrolled in self-directed services, is paying legally responsible individuals, relatives, friends, direct support professional, or any other qualified individual to provide services in alternative locations they shall bill as if services were provided by staff in the normal location.
7. If families, legally responsible individuals, relatives, or friends choose to support the participant without pay (aka. natural supports), then the PTO should not be paid.
8. Participants may designate funds from their self- directed budget for PTO by using the new COVID-19 budget modification process.
9. Participants may not:
 - a. Use new COVID-19 service authorizations (including the 360 COVID-19 Respite Service hours and additional \$2000 increase in budget) for PTO; and
 - b. Request new or additional service authorization for supports to supplement PTO.

Traditional Billing Process under DDA's PCIS2 System:

1. For CLGH, Supported Employment, Community Development Services, Career Exploration, and Day Habilitation a provider shall:
 - Enter "C" day (*as reference to COVID-19 Retainer Payment*) into PCIS2 attendance sheet.

Note: Retainer days will pay through the normal PCIS2 prospective payment process.
2. For Supported Living services, a provider shall:
 - Bill the retainer days on the existing Community Pathways invoice along with the corresponding CMS 1500s.
3. For Personal Supports services, there are two calendars in PCIS2. Providers shall:
 - Enter regularly authorized services into the Base Calendar;
 - Enter 15-minute units for retainer payment on the new "COVID-19 Retainer Calendar"

Notes:

- 1- Retainer hours can be entered on the same day as actual service hours based on the typical service pattern.
- 2- Retainer hours may not be submitted if the day has been indicated as an isolated day.

Traditional Billing Process - Pilot Providers only:

Due to the inability to modify LTSSMaryland, pilot providers will need to invoice for COVID-19 Retainer Payment by submitting CMS 1500s using the LTSS Invoice. Refer to the LTSS Invoice and Instructions on the DDA Appendix K webpage.

Invoices should be submitted directly to the Headquarters who will prioritize and expedite the processing. There will be further guidance provided to the LTSS Pilot Providers as needed.

Self-Direction Billing Process only: (Revised June 1, 2020)

Participants, who are enrolled in the self-directed services delivery model, shall send authorization for PTO to the FMS provider. The FMS provider shall process authorized timesheets for PTO and process claims as usual.

Fiscal Reporting:

Fee Payment System Services:

Guidance for fiscal reporting on COVID-19 related Fee Payment System (FPS) services expenditures will be provided in the Fiscal Year (FY) 2020 cost report instructions at a later date. The instructions will be updated to accommodate the flexibility granted by CMS for service authorization exceptions and the additional costs associated with the COVID-19 state of emergency.

As part of the fiscal reporting related to COVID-19 expenditures, providers will need to identify and include any funds received through the federal Payroll Protection Program in the Cost Report and in the audited financial statements. This requirement will also be reflected in the Cost Report instructions to be released at a later date.

Retainer Payment Reference Chart (Revised June 1, 2020)

Service	Traditional Service Delivery
Career Exploration	Up to 18 days at 80% rate
Community Development Services	Up to 18 days at 80% rate
Community Living- Group Home	Up to 18 days at 100% rate
Day Habilitation	Up to 18 days at 80% rate
Employment Services	Up to 18 days at 80% rate
Personal Supports	Up to 72 hours at 100% rate, within authorized limit (Revised)
Supported Employment	Up to 18 days at 80% rate
Supported Living	Up to 18 days at 100% rate

*Based on current State bed hold days unless otherwise authorized by the DDA.

Applicable Resources:

[DDA Waivers - Appendix K Webpage](#)

[DDA MEMO/GUIDANCE/DIRECTIVES](#)

[DDA Covid-19 Resource Page](#)